

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

THERESA MALONE, individually and as
a derivative action on behalf of Blue Valley
Foods, Inc., a Nebraska corporation; et. al;

4:12CV3190

Plaintiffs,

vs.

DOUGLAS KANTNER, AND BLUE
VALLEY FOODS, Inc., Nominal
Defendant;

ORDER

Defendants.

Defendant Douglas Kantner has moved for hearings on Plaintiffs' efforts to garnish Kantner's accounts to satisfy the judgment entered in this case. (Filing Nos. 365, 366, and 367). While Plaintiffs have moved to strike Kantner's hearing requests as untimely, (Filing No. 368), the court finds the requests were timely filed.

Kantner claims the funds disclosed in response to garnishment interrogatories are exempt from garnishment: Plaintiffs move for delivery of the non-exempt funds held by Morgan Stanley. (Filing No. 371). Provided they are not exempt, the Morgan Stanley funds are sufficient to pay the entire judgment in this case, (Filing No. 364), and any order to pay and payment of the judgment from those funds would moot Plaintiffs' motion for a debtor's examination. (Filing No. 370).

Accordingly,

IT IS ORDERED:

- 1) Plaintiffs motion to strike Defendant Kantner's hearing requests as untimely, (Filing No. 368), is denied.

- 2) Defendant Kantner's motions for a hearing, (Filing Nos. 365, 366, and 367), are granted.
- 3) The hearing requested by Defendant Kantner regarding the garnishment interrogatories served on JP Morgan/Chase Bank, Morgan Stanley, and Wells Fargo, and the hearing on Plaintiffs' motion to deliver non-exempt funds, (Filing No. 371), will be held on October 14, 2016 at 9:00 a.m. Telephonic participation is permitted provided the court receives advance notice.

October 4, 2016.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge